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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/810.132	02/25/97	CANADA	R 48545.C1

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MM41/0713

EXAMINER

ASSOUD, F

ART UNIT	PAPER NUMBER
2857	15

DATE MAILED: 07/13/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/810,132

Applicant(s)

Canada et al.

Examiner

Patrick Assouad

Group Art Unit

2857



☒ Responsive to communication(s) filed on Apr 13, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 32, and 35-56 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 32, 35-40, and 42-56 is/are allowed.

☒ Claim(s) 1 and 41 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Feb 25, 1997 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 10

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Response to Amendment

1. This action is responsive to the Amendment filed 4/13/98. Claims 31,33, and 34 were explicitly canceled. Claims 50-56 were added. Therefore, claims 1, 32, and 35-56 are pending.

Note: There appears to be an ambiguity with respect to the status of claim 1. Nowhere in the Amendment filed 4/13/98 do we see "Please cancel claim 1"; yet on pg. 9 of the Remarks of the Amendment, we see that "Claims 1,31, 33 and 34 have been canceled...Claim 1 was rejected under 35 USC 103. This claims has now been canceled without prejudice..."

Clarification and correction is required.

Response to Arguments

2. Acknowledgment is made of the Terminal Disclaimer filed 4/13/98. The Examiner therefore withdraws the Double Patenting rejection of claims 1 and 31-49.

3. With respect to the 35 USC 103(a) obvious rejections of claim 1, claim 1 being held unpatentable over **Nichol et al.** ('707) or **Canada et al.** ('674), this rejection is maintained. No arguments or amendments to claim 1 are present in the Amendment filed 4/13/98. The particulars of these 35 USC 103(a) rejections are incorporated herein by reference.

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Drawings

4. Figure 1 is objected to for the following reason: Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Figure 1 is identically seen in US Patent 5,544,073 to **Piety et al.**

Information Disclosure Statement

5. The information disclosure statement filed 4/13/98 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because of the following:

a) the authors (if any are known) of item "1." of the IDS, as well as the publication date, are missing; b) the material of items "2." and "3." are not publications -- this material should be submitted in affidavit form if Applicants wish it to be considered; and, c) the authors (if any are known) of items "7." and "9.", as well as the publication dates, are missing.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

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Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Amended independent claim 41 recites the limitation "the comb signal" in line 23. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

8. Claims 32 and 35-56 are allowable over the prior art of record.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Assouad whose telephone number is (703) 305-3811. The examiner can normally be reached Tuesday-Friday from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow, can be reached at (703) 308-3126.

Note that the Examiner can also be reached for informal communication via the Internet at: *passouad@uspto.gov*.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1782.

11. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-7722 or

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308-7724 or

308-7382 or

305-3431 or

305-3432

for formal communications intended for entry, or for informal or draft communications, please label "PROPOSED" or "DRAFT";

Hand-delivered responses should be brought to Crystal Plaza 4, 2201 South Clark Place, Arlington, VA., Fourth Floor (Receptionist).

 7/1/98

Patrick J. Assouad

Patent Examiner -- AU 2857


John Barlow
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